

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

NEKTAR THERAPEUTICS,)
)
Plaintiff,)
)
vs.) Case No.
) 3:23-cv-03943-JD
ELI LILLY & CO.,)
)
Defendant.)
_____)

HIGHLY CONFIDENTIAL
REMOTE VIDEOTAPED DEPOSITION OF
JONATHAN ZALEVSKY, PhD
MONDAY, MAY 5, 2025

Reported in Stenotype by:
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Job No.: 982546

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1 and other kinds of trainings. There was, of course,
2 you know, like, segregation, you know, things that
3 are key to keep with one partner they only stay, you
4 know, with one partner and so on.

5 And so, yeah, I think it would be that --
6 to that kind of level.

7 Q. And during the collaboration between
8 Eli Lilly and Nektar, other than standard
9 confidentiality guardrails, you don't recall any
10 specific instructions about how to use or not use
11 the Microsoft Teams chat function; correct?

12 A. Yeah, there were no kind of specific things
13 given for that collaboration.

14 But I guess, you know, I do think there is
15 an important caveat here, which is, you know, you're
16 asking a lot of questions about Teams and it has, as
17 I described, many sort of capabilities. And so the
18 chat feature is one of those. It's -- it's for very
19 kind of, like, brief, you know, communications, very
20 small or -- like, like, "I'm running late for a
21 meeting," that kind of flavor of communication.

22 So, I mean, you know, so I guess in that
23 regard, there wasn't anything special because we
24 don't use it in -- in kind of a substantive way.

25 We do use other parts of the Teams platform

1 a lot, and they are treated very differently than
2 the way chats are.

3 Q. So you're -- I think you're saying your
4 general experience with Teams' chat function is that
5 you don't engage in substantive communications on
6 the platform; is that right?

7 A. Yeah, I --

8 MR. BATTER: Objection.

9 THE WITNESS: I'm sorry.

10 Yeah. In the chat platform, yes.

11 BY MR. WEEKS:

12 Q. What do you consider to be a substantive
13 communication about a development-related topic?

14 A. Well, for example, something that requires
15 making a decision, maybe about how a study is
16 designed or how a, I don't know, a statistical
17 analysis is conducted or something, you know, those
18 are things that are substantive and really not
19 appropriate, you know, for a chat.

20 We may use a chat to set up a meeting to
21 discuss those things, right. That would be -- it's
22 like a perfect, like, example of how a chat could be
23 used to facilitate that, but we wouldn't use a chat
24 to have that kind of a discussion.

25 Q. But subjects like a clinical trial design

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1 THE WITNESS: Again, I'm not sure because
2 it's not referenced, so I can't say. We work on a
3 lot of things, Christie and I.

4 But, you know, I mean, I appreciate that
5 you showed me both, because it does sort of
6 indicate, you know, how we use chat, which is let's
7 have a meeting, right? I mean, that's basically
8 what this exchange is about, right, is setting up to
9 have a meeting to talk about some data about
10 something.

11 I mean, it also -- it's curious to me that
12 this is also before we terminated, you know, the
13 collaboration with Lilly. So it was also, I guess,
14 during a collaboration.

15 But to be honest, I'm not sure if this is
16 about REZPEG even at all.

17 BY MR. WEEKS:

18 Q. So again, Dr. Zalevsky, you don't have the
19 full context around your conversation with
20 Ms. Fanton from February 24, 2023, based on these
21 message previews; correct?

22 MR. BATTER: Objection.

23 THE WITNESS: Yeah. I can't be certain
24 what this was about.

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1 seen, I would find it unlikely for her to send a
2 chat of that kind.

3 BY MR. WEEKS:

4 Q. Did you ever instruct Katie not to use
5 Microsoft Teams chat to talk about things related to
6 the ISR task force?

7 A. No, I have never instructed her about that,
8 but again, like the underlying kind of zeitgeist, if
9 you will, of your questions is that we just don't
10 use Teams chat in that way. We really primarily use
11 them for scheduling or kind of logistical purposes.

12 Q. So you keep saying "we," Dr. Zalevsky, but
13 what you mean by that is, based on your experience
14 using Teams chat, that is your opinion about its
15 common usage; correct?

16 MR. BATTER: Objection.

17 THE WITNESS: So thank you for the
18 clarification.

19 So the way that I see the Nektar employees
20 from the chats that I see and the way that I use
21 Teams chat, it is for those kind of short
22 communications that are typically around things like
23 logistics and administrative activities.

24 BY MR. WEEKS:

25 Q. Right. And so my question, though, is, you

1 Do you see that?

2 A. Yes.

3 MR. WEEKS: Thank you, Joshua. Could we
4 just scroll down to see Dr. Liu's next messages.

5 BY MR. WEEKS:

6 Q. So Dr. Liu then pastes a provision of the
7 protocol in response to your message; correct?

8 A. Mm-hmm.

9 MR. WEEKS: And then if we could scroll
10 down, Joshua, to -- right there. That's good.

11 BY MR. WEEKS:

12 Q. So Dr. Liu continues to provide her
13 thoughts on the interim analysis and the statistical
14 significance that Nektar can report following that
15 analysis; correct?

16 MR. BATTER: Objection.

17 THE WITNESS: She is just writing, you
18 know, what the protocol said. And she's basically,
19 like, if anything, just restating what's already in
20 the clinical protocol.

21 BY MR. WEEKS:

22 Q. Okay. But she's also providing her
23 perspective on whether or not, consistent with your
24 original question, Nektar can say anything about the
25 statistical significance of interim study results in

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1 a REZPEG trial; correct?

2 MR. BATTER: Objection.

3 THE WITNESS: So if you scroll up, she
4 pasted in the language from the protocol.

5 BY MR. WEEKS:

6 Q. Yes.

7 A. Right. And then she's essentially
8 restating the language of that protocol.

9 And it's kind of too small to read, but
10 it's -- it basically indicates in the protocol that
11 it's an interim analysis and that you can't really
12 do anything on interim analysis. That's, like, what
13 I believe it says.

14 BY MR. WEEKS:

15 Q. So in other words, she was answering your
16 question about what, if anything, Nektar can say
17 about the statistical significance following an
18 interim analysis; correct?

19 A. Yeah. She was -- I believe that she's
20 restating the protocol, which is answering my
21 question.

22 Q. So she's answering your question about the
23 statistical significance of a REZPEG clinical study
24 in a Microsoft Teams chat thread with you; correct?

25 MR. BATTER: Objection.

1 THE WITNESS: So, yeah, if you scroll up, I
2 ask her -- well, I ask the team, right, like, what
3 are some of the pivot points.

4 So, for example, many studies will have
5 something like an independent data monitoring
6 committee called a DMC. And there are studies that
7 are ended early because they're successful, right.

8 And so I'm asking a question, like, in the
9 case that an interim is done, which isn't even a
10 decision, it's just if an interim is done, right,
11 what are some of the possible outcomes, right.

12 So that's the question that I'm asking,
13 which is, you know, in this text, and Yi grabbed the
14 protocol and answered my question. The answer to my
15 question is right in the protocol.

16 BY MR. WEEKS:

17 Q. And so Dr. Liu, in order to provide an
18 answer to that question, followed up in Teams chat
19 with an excerpt of the protocol and her assessment
20 of what that protocol meant; correct?

21 MR. BATTER: Objection.

22 THE WITNESS: So, I mean, I can only --
23 it's only what's on this page, right. So, I mean,
24 it's whatever these words say. But she pasted in
25 the protocol and then interpreted what the protocol

1 that you saw, viewed, and signed this document
2 preservation notice in July 1st of 2023?

3 A. Yes.

4 Q. Okay.

5 MR. WEEKS: Scrolling back to the top of
6 the document, please, Joshua.

7 Q. And so turning back to the first paragraph,
8 Dr. Zalevsky, this is the document preservation
9 notice related to the lawsuit between Nektar and
10 Eli Lilly and Company; correct?

11 A. Mm-hmm. Yes.

12 Q. And after receiving, reviewing, and signing
13 this document preservation notice on July 1, 2023,
14 did you ever receive an updated document
15 preservation notice of any kind that you recall?

16 A. I don't recall seeing another one.

17 Q. Based on your receipt of this document
18 preservation notice, Dr. Zalevsky, what was your
19 understanding of any steps you had to take in order
20 to preserve potentially relevant documents related
21 to the lawsuit?

22 A. Well, fundamentally, none, because, you
23 know, all of the -- the systems that we use at
24 Nektar, whether there are hard drives or shared
25 drives that are on our servers, our e-mails and all

1 of our documents, they're all automatically
2 preserved; right?

3 And so I really didn't -- yeah, I didn't --
4 I didn't change my practice because I always
5 preserve all of the documents, all of the e-mails,
6 all the files on my hard drives, everything.

7 Q. So your understanding was you weren't
8 required to take any action that deviated from your
9 normal use of documents because the company was
10 automatically preserving those materials; correct?

11 MR. BATTER: Objection.

12 THE WITNESS: I just -- you know, in my
13 work I never delete files or documents, right. So
14 that's what I meant because all of my work is always
15 saved and preserved.

16 BY MR. WEEKS:

17 Q. We talked earlier about how you're
18 generally aware that you're Microsoft Teams chat
19 communications were no longer available after a
20 couple of days when you used the platform; correct?

21 A. Yes, we discussed that earlier.

22 Q. Did you take any steps after receiving this
23 document preservation notice to start keeping those
24 Microsoft Teams chats somewhere else in your files
25 before they disappeared?

1 A. No.

2 Q. Was that because that -- it was your
3 understanding that the company was retaining those
4 Teams chat communications automatically like it did
5 for other electronic files?

6 A. Well, I mean, I don't know the answer to
7 that. I mean, we discussed earlier that I knew the
8 messages disappeared from my feed. Where they went,
9 I'm not -- I'm not sure.

10 But I know that every e-mail, every file,
11 every draft document, every PowerPoint slide deck,
12 every minutes of every meeting, I mean, everything
13 that's truly, like, decisional and memorialized, and
14 everything, all of that is highly preserved; right?
15 It's all -- it's all there, as it is for everything
16 I have ever worked on in the ten years that I have
17 worked at Nektar.

18 Q. But not the Teams chat communications that
19 have disappeared over the years at Nektar; correct?

20 MR. BATTER: Objection.

21 THE WITNESS: So I don't see them in my
22 feed; right? So, yeah, where they go, but they're
23 not in my feed.

24 BY MR. WEEKS:

25 Q. Yeah.

1 MR. BATTER: Objection.

2 THE WITNESS: I have not.

3 BY MR. WEEKS:

4 Q. After receiving this document preservation
5 notice, Dr. Zalevsky, did you receive additional
6 instructions from anyone about the use of
7 Microsoft Teams chat to discuss topics, one way or
8 the other?

9 A. I did, yes.

10 Q. And who did that instruction come from?

11 A. The instructions came from Mark Wilson.
12 And they were in a meeting that we'd held for my
13 team, the R&D function, on the day that the
14 complaint was filed because, basically, my whole
15 entire team was unaware, right, that there was any
16 kind of action or complaint filed. That came out
17 that morning in a press release.

18 And Mark held a meeting, and he gave, you
19 know, my team some instructions. And that included
20 both being just available for answering questions
21 because people were surprised, that was the first
22 they'd heard of that, and then also for giving some
23 instructions, particularly on, you know, things like
24 etiquette and things to talk about or not talk
25 about. Firstly for us and specifically in R&D,

1 there's no need to talk about Lilly or the lawsuit,
2 you know, with Lilly.

3 And also, particularly in chat, not to use
4 Teams chat for those kind of, you know, actions, in
5 addition to just not needing to really talk about
6 it.

7 And then if anybody did have any questions,
8 they should go and talk with Mark.

9 Q. So I just want to focus on the instructions
10 about the subject matter and Teams chat specifically
11 that you just described.

12 So it was your understanding, based on the
13 instructions you heard at that meeting, that Teams
14 chat should not be used to discuss Lilly or the
15 lawsuit. Those were the two categories; right?

16 A. Mm-hmm. Yes.

17 Q. Were there any other categories of
18 communication that you were instructed not to use
19 Teams chat to discuss among your development teams?

20 A. Well, no, because like we discussed
21 earlier, everybody has -- needed to pass a training,
22 right, on the use of computerized system and what's
23 the appropriate policies and things like that. So
24 all of that is in effect. And so that covers
25 confidentiality and all the related topics. And

1 few-minute break before I start, or would you like
2 to dive right in?

3 THE WITNESS: No, we can go ahead.

4 MR. BATTER: Let's do that.

5 EXAMINATION

6 BY MR. BATTER:

7 Q. Dr. Zalevsky, what do you typically use
8 Microsoft Teams chats for?

9 A. I typically use them for short
10 communications. Typically, they're for, like,
11 logistics and planning, and then sometimes they
12 might be to ask a question, you know, and then to
13 facilitate, you know, setting up a meeting or
14 something like that about a topic.

15 Q. So you used the phrases "logistics and
16 planning" -- or rather, the words "logistics and
17 planning."

18 Can you give me some examples of the
19 typical chats you sent?

20 A. Yeah, for me, a very typical chat is "I am
21 running late." I have usually a very busy day of
22 back to backs and invariably, meetings run long for
23 me. So for me, I think the most common use is "I'm
24 running late" or "I'll be there soon."

25 Others are, "Hey -- to a couple of

1 people -- you know, I'd like to have a meeting to
2 discuss," so I'll include my admin Ilse on that, and
3 she'll set up a meeting or a conference.

4 Those are some of the most common ways that
5 I use Teams chats.

6 Q. Okay. So it sounds like to inform people
7 you're going to be late for a meeting or to arrange
8 a meeting.

9 A. Yes.

10 Q. Now, what about the Teams chats that you
11 receive from others at Nektar? Do they tend to be
12 of the same nature?

13 A. Yeah. I would say that typically the chats
14 I receive are about some kind of schedules or some
15 kind of planning. They might be around a meeting.
16 They might be to cancel a meeting or to schedule an
17 ad hoc meeting or something. I also get the message
18 "I'm running late" as well. I think we're all, kind
19 of, a little bit -- yeah, you know, very, very
20 overdeployed.

21 Q. Now, Lilly's counsel continued to refer to
22 chats as being about REZPEG development.

23 Do you recall that?

24 A. Yes, I do.

25 Q. Would you characterize your Teams chats as

1 typically being about REZPEG's development?

2 MR. WEEKS: Objection. Form.

3 THE WITNESS: So, I mean, my Teams chats
4 are about lots of different topics, many, many
5 topics. And they span all the work that we do at
6 Nektar. So that is work across research, across
7 development.

8 Some of that work includes REZPEG, but, you
9 know, even now that we're no longer collaborating
10 anymore with Eli Lilly, who terminated the
11 agreement, we're still focused on the development of
12 REZPEG.

13 And as I described earlier, that's a big
14 umbrella. That can be everything from scheduling a
15 meeting to talk about it to asking a question if
16 that site in Poland has enough collection kits for
17 the PK samples. You know, I mean, just, you know, a
18 question.

19 So it's really very broadly used, and it
20 can be used for REZPEG as well as for other things,
21 but typically the most common use of it for me is
22 for logistics and planning, very short kind of
23 communications about that.

24 BY MR. BATTER:

25 Q. So if you're not using Teams chats to

1 perform the substantive functions of your work at
2 Nektar, what applications or tools or software are
3 you using to perform the core functions of your
4 work?

5 MR. WEEKS: Objection. Form.

6 THE WITNESS: So we actually used
7 Microsoft Teams a lot, but the other capabilities of
8 Microsoft Teams.

9 So probably the most common form of
10 communication that we have is an online meeting,
11 very much like this Zoom call that we're having now.
12 Microsoft Teams has a built-in, you know, video
13 conference feature, and it's very easy to have a
14 video meeting. And also it's very easy, instead of
15 a phone call, to just set up a one-to-one or
16 one-to-two or one-to-three video meeting just
17 instantly. So that's a very common feature.

18 The other most common feature is using
19 e-mails. So we send a lot of e-mails at Nektar. We
20 go, you know, back and forth with those, and I know
21 you've seen thousands, if not tens of thousands,
22 maybe even more, of those.

23 And then the other kind of -- probably the
24 third most common is we used shared document spaces.
25 So again, one of the great things about

1 Microsoft Teams is you can put a file like a Word
2 document or PowerPoint file and everybody can then
3 group edit it or group work on it. You don't have
4 to e-mail it back and forth, losing version control.
5 So that's probably the third most common use that we
6 use to communicate.

7 And then phone call would be the fourth, I
8 guess.

9 BY MR. BATTER:

10 Q. So you mentioned, among other things,
11 e-mail and documents as being two of the ways you
12 primarily do your work.

13 A. Yes.

14 Q. What is your understanding of how long
15 e-mails and documents are retained at Nektar?

16 A. I know that they are permanently retained.

17 Q. Is it important to you that the work you
18 perform at Nektar is permanently maintained?

19 A. Absolutely. You know, I mean, the greatest
20 driver of value in a company like ours is our
21 intellectual property. And to maintain intellectual
22 property, whether it's anything from the priority
23 date, you know, for your original invention to all
24 of the data and information that makes up the
25 ultimate patent, all of that requires maintaining

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1 all the records, everything from the earliest lab
2 notebooks to then preserving all of the, you know,
3 related and subsequent files.

4 And that doesn't just cover, you know,
5 discovery where you're dealing with inventions. It
6 covers the ongoing development, the manufacturing,
7 which has so many trade secrets and all of the
8 things in it. All of those require very detailed
9 and meticulous retention records.

10 Q. I'd like to show you Exhibit 1447, which
11 Lilly's counsel previously questioned you about.

12 MR. BATTER: Josh, if you're able to put
13 that up on the screen, I'd appreciate that.

14 Q. Dr. Zalevsky, you see this on your screen?

15 A. Yes.

16 Q. You recall Lilly's counsel previously
17 questioned you about this?

18 A. Yes.

19 Q. Do you see that Mary's message ends with an
20 ellipses, reflecting that her chat continues?

21 A. Yes, I do.

22 Q. All right. Now I'd like to show you
23 Exhibit 1446, which Lilly's counsel also questioned
24 you about.

25 MR. BATTER: Josh, if you can please

1 display that.

2 Q. Dr. Zalevsky, do you see Ms. Fanton's chat

3 to you?

4 A. Yes, I do.

5 Q. Does Ms. Fanton's chat end with an

6 ellipses?

7 A. No, it does not.

8 Q. So this is not a, quote, "preview chat," as

9 Lilly's counsel continually represented to you?

10 MR. WEEKS: Objection. Form.

11 THE WITNESS: Yeah, I would think this is

12 the entire chat.

13 BY MR. BATTER:

14 Q. And you see Ms. Fanton wrote: "It would be

15 great if we could touch base to go through the data

16 in the next couple of weeks."

17 Do you see that?

18 A. Yes.

19 Q. So in essence, she's asking for a meeting.

20 A. Yes. This is, again, typically one of the

21 most common ways that Teams chats are used.

22 Q. Would you consider this to be a substantive

23 chat or a procedural and administrative one?

24 A. This is a --

25 MR. WEEKS: Objection. Form.

1 THE WITNESS: Yeah, this is a procedural
2 and an administrative chat, to me.

3 BY MR. BATTER:

4 Q. You see the date and time, February 24,
5 2023, at 12:21 p.m.?

6 A. Yes, I do.

7 Q. Do you recall Lilly's counsel questioning
8 you about whether you knew what your response could
9 be because it's not retained -- excuse me -- it's
10 not within this document.

11 Do you recall that?

12 A. Yes.

13 Q. Well, let's look at that response, which
14 Lilly marked in reverse order. It's Exhibit 1445.

15 Dr. Zalevsky, you see the date and time,
16 same day, February 24, 2023, at 4:10 p.m.?

17 A. Yeah, it's about four hours later.

18 Q. Does your chat end with an ellipses?

19 A. No.

20 Q. So do you understand your chat here to be
21 a, quote, "preview chat," as Lilly's counsel
22 represented to you?

23 MR. WEEKS: Objection. Form.

24 THE WITNESS: Yeah, this -- this is the
25 entire chat memorialized in this e-mail.

1 BY MR. BATTER:

2 Q. So this is not a preview chat?

3 A. Correct.

4 Q. You responded to Ms. Fanton's chat,
5 writing: "You got it. There are a lot of very
6 interesting things to look at."

7 You see that?

8 A. Yes.

9 Q. So you were responding to Ms. Fanton's
10 request for a meeting, saying, "You got it."
11 Right?

12 A. Yeah. Correct. Again, this is the most
13 common way that we use Teams chats.

14 Q. In essence, Ms. Fanton was asking for a
15 meeting, and you said okay.

16 A. Correct.

17 Q. Would you consider this to be a substantive
18 chat or a procedural and administrative one?

19 A. I consider this to be procedural and
20 administrative.

21 Q. Is this typical of your chat exchanges,
22 arranging meetings?

23 A. Yes.

24 MR. WEEKS: Objection to form.

25 THE WITNESS: Typically and most common,

1 Q. So is it the case that you were just asking
2 Sohail for information that you could obtain in
3 primary documents for convenience?

4 A. Yeah, that's exactly what this exchange is
5 about. I know that he has that information much
6 more top of mind, and it was going to be faster for
7 me to send him a very quick chat than for me to, you
8 know, get it out of the -- out of this app.

9 Q. And is the answer that he gave you, is that
10 unique information or is it information you could
11 have obtained looking at the statistical analysis
12 plan?

13 A. Oh, it's directly in the statistical
14 analysis plan.

15 MR. BATTER: Josh, you can take that
16 exhibit down. Thank you.

17 BY MR. BATTER:

18 Q. Dr. Zalevsky, after Lilly terminated the
19 parties' collaboration agreement in April 2023, have
20 you used Teams chats to communicate about that
21 collaboration agreement between Nektar and Lilly?

22 A. No, I have not.

23 Q. After Lilly terminated the collaboration
24 agreement, have you used Teams chats commenting
25 about the work that Lilly performed under the

1 agreement?

2 A. No, I have not.

3 Q. After Nektar sued Lilly in August 2023,
4 have you used Teams chats to communicate about the
5 lawsuit or the claims in the lawsuit?

6 A. No.

7 Q. Why is it that you're not using Teams chats
8 to discuss these topics?

9 A. Well, firstly, those are not topics that
10 require discussion. Secondly, if I ever did discuss
11 them, it would be with a lawyer, and I certainly
12 wouldn't use Teams chat at all for that.

13 Q. And why wouldn't you use Teams chats to
14 discuss these topics?

15 A. Well, again, it's just not an appropriate
16 medium to discuss this kind of information. I was
17 given direct training by Mark Wilson, you know,
18 about that, like we discussed earlier in this
19 examination. And, you know, it's just not an
20 appropriate medium by any -- by any configuration.

21 Q. I'd like to show you the document
22 preservation notice that Lilly's counsel showed to
23 you. It's Exhibit 1457.

24 MR. BATTER: Josh, if you wouldn't mind
25 sharing the screen with that.

1 BY MR. BATTER:

2 Q. Do you see in the second paragraph starting
3 "Effective immediately," the preservation notice
4 refers to preserving documents, quote, "relating to
5 the dispute."

6 Do you see that?

7 A. Yes, I see that.

8 Q. Dr. Zalevsky, do your Teams chats relate to
9 the dispute with Lilly?

10 A. No, they do not.

11 Q. And if we can scroll down just a bit, there
12 are three bullets there on the page.

13 MR. BATTER: Perfect. Thank you, Josh.

14 BY MR. BATTER:

15 Q. Dr. Zalevsky, the first bullet relates to:
16 "The action (or inactions) taken by Lilly in the
17 development NKTR-358 (REZPEG)."

18 Do you see that?

19 A. Yes, I do.

20 Q. Post-terminations of the collaboration
21 agreement, did you chat about that topic?

22 A. No, I did not.

23 Q. Actually, let me re-ask that to be more
24 articulate.

25 Post-termination of the collaboration

1 agreement, did you use Teams chats to communicate
2 about that topic?

3 A. No, I did not.

4 Q. And the second bullet refers to: "The
5 standard of care Lilly used in performing its
6 obligations under the agreement."

7 Do you see that?

8 A. Yes, I see that.

9 Q. After Lilly terminated the agreement, did
10 you use Teams chats to communicate about that topic?

11 A. No, I did not communicate about that topic
12 with Teams chats.

13 Q. And the third bullet: "Nektar's various
14 discussions, negotiations, collaborations, and
15 agreements with Lilly relating to the development of
16 NKTR-358 (REZPEG)."

17 Do you see that?

18 A. Yes.

19 Q. After Lilly terminated the license
20 agreement, did you use Teams chats to communicate
21 about that topic?

22 A. No, I did not use Teams chats to
23 communicate about that.

24 Q. Did you comply with the document
25 preservation notice?

1 A. I did, yes.

2 MR. BATTER: Josh, you can take that down,

3 please.

4 BY MR. BATTER:

5 Q. Earlier, Dr. Zalevsky, you testified about

6 an August 2023 meeting where Nektar's general

7 counsel Mark Wilson gave you and others an

8 instruction not to chat about Lilly or the lawsuit.

9 Do you recall that?

10 A. Yes.

11 Q. Did you abide by that instruction?

12 A. Yes.

13 MR. BATTER: No further questions.

14 MR. WEEKS: I have a couple more questions.

15 FURTHER EXAMINATION

16 BY MR. WEEKS:

17 Q. Dr. Zalevsky, you just told Mr. Batter that

18 none of your Teams chats relate to the dispute with

19 Lilly.

20 Do you remember saying that a minute ago?

21 A. Yes.

22 Q. Okay. What assessment have you conducted

23 across your Teams chat use over the last two years

24 to determine whether those Teams chats relate to the

25 lawsuit with Lilly or not?

1 Q. So you considered Microsoft Teams chats
2 lumped together with everything else on your
3 computer; right?

4 A. Yes.

5 MR. BATTER: Objection.

6 MR. WEEKS: I have nothing further.

7 MR. BATTER: Dr. Zalevsky, just a few
8 questions to clear up your understanding of the
9 document preservation notice.

10 FURTHER EXAMINATION

11 BY MR. BATTER:

12 Q. Was it your understanding that that
13 preservation notice required preserving all
14 documents, regardless of topic, or was limited to
15 those relating to the dispute?

16 A. It was for those relating to the dispute.

17 Q. So if you had an administrative and/or
18 procedural chat not relating to the dispute, did you
19 believe you had to preserve that?

20 A. Well, no, it was outside of the reference
21 point of the preservation notice, which was only
22 related to the dispute.

23 Q. And if you had a communication that was
24 relating to the dispute with Lilly, was it your
25 understanding that that should be preserved?

1 A. Yes. If it was related to the dispute, it
2 should be -- it was in the confines of that document
3 preservation notice.

4 MR. BATTER: No further questions.

5 MR. WEEKS: I'm done.

6 MR. BATTER: Before we go off the record, I
7 would like to mark the transcript as confidential
8 under the protective order.

9 MR. WEEKS: You got it.

10 And with that, I think we can go off the
11 record.

12 THE VIDEOGRAPHER: All right. The time is
13 2:43 p.m., and this concludes today's deposition.

14 (Deposition concluded at 2:43 p.m.)

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COUNTY OF LOS ANGELES,)
)
STATE OF CALIFORNIA,)

I, Cody R. Knacke, Registered Merit
Reporter, Certified Shorthand Reporter in and for
the State of California, License No. 13691, hereby
certify that the deponent was by me first duly sworn
and the foregoing testimony was reported by me and
was thereafter transcribed with computer-aided
transcription; that the foregoing is a full,
complete, and true record of said proceedings.

I further certify that I am not of counsel
or attorney for either or any of the parties in the
foregoing proceedings and caption named or in any
way interested in the outcome of the cause in said
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The dismantling, unsealing, or unbinding of
the original transcript will render the reporter's
certificate null and void.

In witness whereof, I have hereunto set my
hand this day: May 5, 2025.



CODY R. KNACKE, RMR, CSR No. 13691